

Message Text

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ACTION ARA-20

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FM AMEMBASSY QUITO

TO SECSTATE WASHDC 0688

C O N F I D E N T I A L QUITO 2426

E.O. 11652: GDS

TAGS: EFIS, EC

SUBJECT: FISHERIES ASSOCIATION TALKS: QUEVEDO'S "ESSENTIAL POINT"

REF: STATE 70164

1. WITH REGARD TO AMBASSADOR QUEVEDO'S RECENT DEMARCHE ON FISHERIES TALKS (REFTEL), IT OCCURS TO US THAT WE HAVE REPEATEDLY MADE THE POINT, IN DISCUSSING A POSSIBLE FISHERIES ASSOCIATION WITH GOE OFFICIALS, THAT WHAT WE INDEED ENVISION IS AN ARRANGEMENT IN ACCORDANCE WITH ECUADOREAN LAW, BASED ON COMMERCIAL PRINCIPLES AND, AT LEAST ON THE U.S. SIDE, BETWEEN PRIVATE PARTIES (QUITO 639, 1625, 1666). FURTHER, A REVIEW OF THE EXISTING ASSOCIATION CONTRACT WITH B AND B FISHERIES (GUAYAQUIL 1271 (1973); COPY OF CONTRACT POUCHED MARCH 20 TO ARA/EP AND S/FW) SUGGESTS THAT B AND B HAS ALREADY FOLLOWED THIS FORMULA, AND THAT IT IS ESSENTIALLY THE SAME AS THAT ADVANCED BY QUEVEDO AND REPORTED PARAS 2-4 REFTEL.

2. IN ADDITION TO ITS SPECIFIC OBLIGATIONS TO EPNA, THE STATE FISHERIES ENTERPRISE, B AND B AGREES: "TO ADOPT THE MEASURES NECESSARY FOR THE PROTECTION OF THE RESOURCES OF THE SEA AND TO AVOID CONTAMINATION OF THE
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WATERS, IN CONFORMITY WITH THE PERTINENT LAWS"; "TO PAY

TO THE STATE ALL THE TAXES, CHARGES, CONTRIBUTIONS AND OTHER OBLIGATIONS REQUIRED BY THE TAX LAWS OF THE COUNTRY"; AND "TO OBSERVE AND FULFILL ALL LAWS AND REGULATIONS EFFECTIVE IN ECUADOR AND THOSE WHICH MAY BE PUT INTO EFFECT". FURTHER ON, B AND B AGREES TO DOMICILE ITSELF IN ECUADOR, SUBJECT ITSELF TO ECUADOREAN LAW AND, IN CASE OF LITIGATION, USE THE LOCAL JUDICIAL SYSTEM. FINALLY, FOR WHAT IT IS WORTH, "B AND B FISHERIES EXPRESSLY RENOUNCES ANY CLAIM THROUGH DIPLOMATIC CHANNELS".

3. WE CANNOT ENTIRELY DISCARD THE POSSIBILITY THAT, LURKING BEHIND QUEVEDO'S DEMARCHE, MAY BE SOME GOE (OR, MORE LIKELY, FONOFF) ATTEMPT TO ELICIT THE APPEARANCE OF U.S. ACQUIESCENCE TO ECUADOR'S LOS POSITION. HOWEVER, WE RATHER DOUBT THAT THIS IS WHAT WAS BEHIND QUEVEDO'S VISIT. WE DO NEVERTHELESS FEEL THAT HIS EXPRESSED FEARS COULD BE CALMED, AND OUR OWN INTERESTS GUARDED, BY AN INFORMAL, VERBAL RESPONSE ALONG THE FOLLOWING LINES:

4. A. OUR PROPOSAL FOR AN INTERIM SOLUTION TO MUTUAL FISHERIES DIFFERENCES IS BASED ON INDUSTRY-TO-INDUSTRY ASSOCIATION, UNDER THE TERMS OF ECUADOREAN LAW;

B. WE EXPECT THAT ANY ASSOCIATION AGREEMENT INVOLVING ELEMENTS OF U.S. INDUSTRY WILL BE MADE WITH PRIVATE FISHERIES INTERESTS; ALTHOUGH THE USG WILL WISH TO HAVE OBSERVERS AT THE TALKS, IT WILL DEFINITELY NOT BE A PARTY TO THE AGREEMENT;

C. SINCE AN ASSOCIATION AGREEMENT WILL BE MADE UNDER THE TERMS OF ECUADOREAN LAW, WE PRESUME THAT ECUADOREAN AUTHORITIES WILL APPLY ECUADOREAN LAW, WITHOUT DISCRIMINATION, TO ALL PARTIES TO ANY ASSOCIATION AGREEMENT; MOREOVER, AS A SOVEREIGN ENTITY THE GOE, IN ITS DISCUSSIONS WITH U.S. INDUSTRY REPS, IS OBVIOUSLY FREE TO HOLD OUT FOR WHATEVER CONDITIONS IT WISHES;

D. SINCE PARTICIPATION BY U.S. INDUSTRY WILL BE ON A PRIVATE BASIS, IT WILL BE GUIDED BY STRICTLY COMMERCIAL CRITERIA;
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E. IT WILL THEREFORE BE UP TO INDIVIDUAL AMERICAN FISHERIES ENTERPRISES TO DECIDE, ON THE BASIS OF CONDITIONS REQUIRED BY ECUADOREAN LAW, WHETHER ANY PROPOSED ASSOCIATION AGREEMENT IS ATTRACTIVE OR NOT.

5. IF QUEVEDO'S PROBLEM IS LIMITED, AS WE SUSPECT, TO THE POSSIBILITY OF USG INTERFERENCE ON BEHALF OF

AMERICAN PARTIES TO A FUTURE ASSOCIATION AGREEMENT,
SOMETHING LIKE THE ABOVE SHOULD SATISFY THE GOE'S
QUALMS WITHOUT, WE BELIEVE, GIVING AWAY ANYTHING ON LOS.
IT WOULD PROVIDE A USEFUL TEST OF GOE INTENTIONS, AND
WE WOULD SUGGEST MAKING THESE POINTS TO QUEVEDO AT AN
EARLY OPPORTUNITY.

6. THIS SUBJECT WAS DEFINITELY NOT REPEAT NOT RAISED
BY PONCE DURING THE CONVERSATION REPORTED IN QUITO 2028.
WE ARE STRUCK BY THE APPALLING POSSIBILITY THAT PONCE --
WHO IS DEFINITELY NO HEAVYWEIGHT -- MAY HAVE BOTCHED,
OR SIMPLY FAILED TO CARRY OUT, INSTRUCTIONS TO
MAKE THE SAME PRESENTATION AS QUEVEDO.
BREWSTER

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